



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Robert L. Waldron Revocable Trust/Map 132, Lot 13/001

March 5, 2014

**Applicant: Robert L. Waldron Revocable Trust
Robert Waldron, Trustee
PO Box 248
Hampstead, NH 03841**

Location: Toltec Point Road, Moultonborough, NH (Tax Map 132, Lot 13/001)

On February 5, 2014 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Robert L. Waldron Revocable Trust (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III (I) to allow for construction of a new 2 bedroom single family dwelling to be higher than the required thirty-two (32) foot height limit for the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located on Toltec Point Road (Tax Map 132, Lot 13/001).
- 2) The applicant is the owner of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) The applicant was represented at the hearing by Nicol Roseberry of Ames Associates.
- 5) The applicant is proposing construction of a new 2 bedroom single-family dwelling unit.
- 6) The proposed average height of the structure will be approximately thirty-four feet and nine inches (34'9") high.
- 7) The applicant has received the necessary State Of New Hampshire DES Shoreland Impact Permit and NH DES Subsurface Approval for Construction for a 2 bedroom dwelling.
- 8) The applicant amended his application to include the installation of a residential fire sprinkler system in accordance with NFPA 13.
- 9) Two (2) abutter e-mails were received stating no objections to the Variance request.

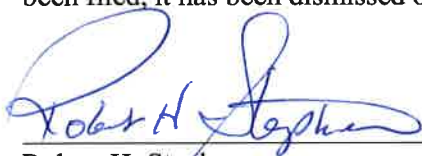
- 10) No members of the public spoke in favor or against the Variance request.
- 11) Granting the Variance will not be contrary to the public interest as the use of the lot for residential use is in accordance with the permitted uses in the Agricultural Residential (AR) Zoning District and the height of the residential structure is 30 ft. on the road side of the parcel.
- 12) Granting the Variance is consistent with the spirit of the Ordinance as the intent of the use in the zoning district is in conformance with the requirements of the Zoning Ordinance and the average height is skewed by the steep slope of the parcel towards the lake side.
- 13) By granting the Variance, substantial justice is done because the applicants may have a two story dwelling with basement given this relief and that the benefit from the relief given outweighs any gain to the public interest from strictly adhering to the requirements of the ordinance.
- 14) Granting the Variance does not diminish the value of surrounding properties as the neighborhood is largely comprised of single-family homes of like construction and style.
- 15) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as there are special conditions of the property that distinguish it from other properties, such as steep slopes, and the property cannot be reasonably used in strict conformance with the ordinance.

On March 5, 2014, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Stephens, Crowe, Bickford, Onthank), and one (1) opposed (Nolin) to grant the request for a variance with the following conditions; 1. That an elevation certificate as to the structure's average height per code definition prepared by a licensed land surveyor (at time of framing) and be submitted to the Code Enforcement Officer for review and for the file, and that the overall height not exceed three (3) feet above the allowable height in the current Zoning Ordinance; 2. That the shed currently located on the common boundary line be moved to the building envelope on the adjacent property; 3. That the septic leach field and lines access and maintenance easement be shown on the proposed plans, and language for same be added to the deeds or recorded as a separate instrument, with a copy submitted as part of the building permit application; 4) This Notice of Decision shall be recorded at the Carroll County Registry of Deeds; 5) that a foundation certificate be submitted to the Code Enforcement Officer as part of the building permit application process; 7) The attic space shall NOT be habitable;

...and to close the Public Hearing, and further to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on March 19, 2014, approved this formal Notice of Decision language and authorized the Chairman to sign same and send to the applicant and place in the case file by a vote of five (5) in favor (Stephens, Nolin, Crowe, Bickford, Onthank), and none (0) opposed.

The decision made to Approved the variance on March 5, 2014, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 3-20-2014